

TOWN OF EAST WINDSOR - ZONING BOARD OF APPEALS
MINUTES OF REGULAR MEETING
JULY 11, 2011

The East Windsor Zoning Board of Appeals held a Regular Meeting on Monday, July 11, 2011 at the Park Hill Community Room, 1-A Park Hill, Broad Brook, Connecticut. The following members were present: Regular Members Tom Arcari, José Giner, Stan Paleski and James Stremper, and Alternates Tom Gudzunus and Christine Wentworth. Also present was Robin Newton, Zoning Enforcement Official.

The meeting was called to order at 7:32 p.m. by Chairman Tom Arcari. Mr. Stremper read the legal notice as it appeared in publication.

ESTABLISHMENT OF QUORUM

A quorum was established, as four regular members and two alternates were present. Ms. Wentworth served as a voting member. Mr. Gudzunus did not participate.

NEW HEARINGS:

ZBA #2011-02 - Application of Louis Alterio for property located at 223 Fairway Drive, owned by James A. Balch, for a variance of Section 808.1 *Parking Space (Trailer Parks)* to allow the placement of a shed to be located less than the minimum of 15 feet from any other structure. [B-2 zone]

Representing the applicant was Robert Cavanillas, 26 Cedar Avenue, Wolcott, CT. He explained that there was a cease order after they constructed the shed. He said it is on a down hill slope and that where it has to be.

Ms. Newton explained that they were informed by the Building Department that the shed was being built without a permit and they were asked to stop. When the owner came in to obtain a permit he was told that he could not place the shed where he wanted it and that he would need to get a variance. Ms. Newton said she went to the property today with Laurie Whitten to take measurements. She referred to some photos of the property and noted that there is enough room to meet the set back requirements. There is a small tree that might have to be removed and if they made the shed a rectangle shape, they could meet the requirements. Reference was made to a memo from Robin Newton, dated July 11, 2011 which states, in part: "Based on the current sketch and site visit today the approximate size of the shed being built is around 72 sq. feet. If the shed was moved and reconfigured Mr. Alterio could build a shed 7' x 10', 70 square feet, and meet the necessary setback requirement.

Mr. Arcari asked if anyone in the audience wished to speak.

Linda Klemas of 222 Fairway Drive said that she has been there for six years and there was a shed there before directly behind his mobile home.

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MOTION: To close the hearing on **ZBA #2011-02.** Paleski / Giner / Unanimous

MOTION: To approve **ZBA #2011-02** in accordance with the plans submitted.
Giner / Stremper

Discussion and Vote:

Mr. Giner said that he would not vote in favor of it. He said it was shown that a shed could exist on the property prior to that and meet the regulations. This shed was already under construction without a permit. He said it is not a hardship; it is self-created. By moving it or reconfiguring it, they will be able to meet the regulations without a variance. Mr. Paleski said he would agree. There was a shed there before, and they can move the shed back behind 223 Fairway and that would bring it into conformity. It is a self-created hardship. He built a shed first without proper permits. Ms. Wentworth said at first she was inclined to approve it, but since there was a shed before, she would have to vote against it. Mr. Stremper said he feels the same. Mr. Arcari said where the shed is now, the owner of 222 Fairway Drive has no room to even walk between the shed and her trailer. It is a self-created hardship and it needs to be moved.

In Favor: None

Opposed: Unanimous

ZBA #2011-03 – Application of Advanced Wheels of Technology, Inc. for property located at 226 and 230 Main Street, East Windsor, owned by UPS Capital Business Credit, for the following variances: Section 600.2 *Landscaped Buffer Requirement* for a reduction in the required buffer; Section 501 Bulk & Area Requirements for a reduction in the side yard requirement; Section 601.3 h.1 *Parking Lot Design* for a reduction in the setback from the front property line for commercial parking and related improvements and; Section 601.3 h.3 for a reduction in the setback from the building for commercial parking and related improvements. [M-1 zone]

Atty. Richard Cottone came forward and explained that he represented Advanced Wheels of Technology and Q-3 LLC. He noted that Advanced Wheels of Technology are under contract to purchase 226 and 230 Main Street. One of the conditions of the contract is to obtain the variances. Also present was John Quant and his son Christian Quant, the applicants, as well as Peter DeMallie of Design Professionals.

Atty. Cottone presented certificates of mailing to 8 abutters within 100 feet of the property. He noted that they are here tonight seeking some variances as well as location approval for a used car dealer's license. He indicated that Advanced Wheels of Technology has been in business since 1988 at the same location in East Granby, CT. It is a family business that employees approximately 15 people, and two of the employees have been there since their inception in 1988. Their business is converting and selling vans to be ADA compliant. The area that they sell and service is from Northampton, MA into eastern New York State. Currently in their area they are the vendor in that field that has the longest standing tenure with the State.

Atty. Cottone noted that the property consists of two parcels. The zone was changed on the back piece in September of 2003 to M-1. In December of 2003 a variance was granted to approve the construction of a rather large building on that piece. He explained that the approval was appealed in

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Superior Court by Andrew Smith who owns a piece that abuts the back piece. The appeal was based on no hardship and the court agreed that there was no hardship proven and that it should not have been granted. Atty. Cottone pointed out that the applicants are seeking variances to pave the back area for parking. He indicated that about a year and a half ago, both pieces were foreclosed on. UPS Capital has the mortgage. He said the property is an eyesore. It is boarded up. He said the rear property is useless without a variance because of its nearness to a residential zone. It cannot be used without a variance and could almost be considered a taking.

Peter DeMallie, of Design Professionals stated that they were involved in the prior application years ago. He said this application is quite different. He said if they were to apply the 100-foot buffer setback requirement, they could not do any improvements there and that would essentially be a taking of the property. He said this property has insufficient parking.

Mr. DeMallie explained that the applicants sell mini vans and convert vans for disabled people. In order to meet the zoning requirements for this use, it is required to have 30 parking spaces. They have 32 spaces shown, 12 in the front and 20 to the rear. They are also proposing some over-sized spaces (16' x 16') which are designed for disabled people to get in and out of a converted mini van. He said they can accommodate 12 spaces where the vans could be displayed for sale. They sometimes sell used and new vans. The area in the front is not a formal parking area. They propose to make it into a more conventional parking area. They want to eliminate a curb cut on Main Street. This allows for handicap vehicles to park in the front.

Mr. DeMallie noted that in order for them to operate, they need to have access to the building via an overhead door. All work to service the vans will be conducted within the building. Deliveries will come in from the private boulevard that serves the sports complex. Mr. DeMallie pointed out that there are a number of considerations. There is insufficient parking. They are taking that out of a nonconforming situation and making it conforming. They can't utilize this property at all if you apply the buffer. The property doesn't have the full width requirement of the zone. They have 150 feet rather than 200, making it narrow and difficult to develop.

Mr. DeMallie indicated that they are going for a number of variances. One is the setback of the existing building. They are asking for that so that it becomes legal. It is a nonconforming structure. It cannot be moved. He noted that there are windows that abut the residential zones and their intention is to black out those windows. There will be no activity and it won't interfere with the people there. They will be taking pavement away from the area along the residential border and putting in landscaping. They are asking for a variance for the front parking to be 10 feet away from the front property line rather than the 25 feet required. They are asking for a variance so that they can park vehicles closer than 10 feet from the building. Mr. DeMallie noted that the applicant's purchase option is contingent on their receiving these variances.

Mr. Giner asked about the lighting. Mr. DeMallie said they will have full cut-off fixtures. He said that will be part of the site plan for the Planning and Zoning Commission. He noted that they will need lighting around the parking lot and along all the paved areas.

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Ms. Newton referred to her memo to the Zoning Board of Appeals dated July 11, 2011 which stated in part: "In reviewing this request for the variance for the landscape buffer it is important to note that the existing commercial building is already within the 100' buffer. The commercial building and use are located, up to, only 8 feet from the property boundary adjacent to the residential use. This request is to extend a parking area to the east of the building (rear of the existing building). This would not encroach any further to the residential properties than what currently exists. Furthermore, because of the unusual shape of the rear parcel, which dimensions are only 127.65' wide, if a variance request was not granted it would deem this property un-useable." Reference was also made to a memo from Laurie Whitten, dated July 11, 2011 which stated in part: "There should be minimal to no impact to the residentially zoned property should this variance be granted. It would seem beneficial to the Town and to the abutting property owners that this building be occupied with a viable tenant, rather than go into disrepair."

Mr. Paleski asked how many vans they service per month. Mr. Quant said it's from 3 to 10 per month, with more in the summer months. He said they are not high volume.

Mr. Arcari opened up the hearing to the public.

Attorney Dennis McCormick stated that he represents Andrew Smith of 236 Main Street. He said Mr. Smith has lived at the property for 71 years. Atty. McCormick noted that Ray and Ruth Ann Boynton, Mr. Smith's daughter and son-in-law, were present tonight. He said he represented Mr. Smith in the original appeal. He said these are 2 separate pieces. One is a flag lot that surrounds the property. He said that property was a give-away to the present owner. It was never envisioned as a viable industrial lot that could stand alone. Atty. McCormick said they are in favor of this application. They will be improving the building. They have no issues with the applicant. The only issue is that the property directly behind Mr. Smith remain in a natural state. He said the applicant has prepared a legal description that describes the property where they are seeking the variances. He said if the board chooses to grant the variances, that it is clear that those variances are just for the property that is contained in the legal description.

Michael Chechette, owner of the Sports facility, said he always thought they were 226 Main Street. He said his major concern is that their business thrives from the end of October through early May. Weekends are their busiest time. He said they are not allowed to park on the cul-de-sac but many parents do. Mr. Quant noted that they won't be there nights and weekends. Their hours would be 8:00 a.m. to 4:30 p.m. Monday through Friday. Mr. Giner pointed out that traffic would be something that will be addressed by the Planning and Zoning Commission when they go for site plan approval.

Lisa Thompson, of 232 Main Street, said her house is next to the parking lot. She said she didn't like the idea of lighting in the front of the parking lot. She was concerned that the lights are going to shine into her bedroom and her daughter's bedroom. Mr. DeMallie explained that the lighting systems are designed so that they don't illuminate other properties. They will be full cut-off fixtures that won't go beyond the property. He also noted that there will be plantings along the entire right of way beyond her lot. That will screen her property from this property.

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Ms. Newton asked about the correct address for the property. She noted that the application says 226 and 230 Main Street. After some discussion, Mr. Cottone said that it should be 230 Main Street.

Lisa Bancroft, who owns 227 and 229 Main Street, said that she was very concerned about the lighting. She was also concerned about them having a lit sign. She asked what the requirements are for signs. Ms. Newton noted that in the M-1 zone they can have sign of up to 32 sq. ft. She read the regulations regarding illumination of signs. It states: "Signs may be externally illuminated provided that the source of light is shielded from the road and adjacent properties." Ms. Bancroft said she was also concerned about the location of dumpsters. Mr. DeMallie said they will be located at the back of the building. Ms. Newton indicated that is for Planning and Zoning to address.

Ruth Ann Boynton, who lives across the street, expressed concern about the buffer. She said the green area shown on the map is a buffer zone. She said it is a law. A buffer zone 100 feet wide shall be required between an M-1 zone and a residential zone. She said there is a reason for this.

Ms. Newton explained that the regulations require a 100-foot buffer between the industrial zone and residential zones. However, where certain situations exist there is an option to get a waiver from the Planning and Zoning Commission to modify the buffer requirements. She said in this instance, it was felt by the Planning & Zoning office that it was better suited to get a variance to give the public an opportunity to speak.

MOTION: To close the public hearing on **ZBA #2011-03**.

Paleski / Giner / Unanimous

MOTION: To approve **ZBA #2011-03** application of Advanced Wheels of Technology, Inc. for property located at 230 Main Street, East Windsor, owned by UPS Capital Business Credit, for the following variances: Section 600.2 *Landscaped Buffer Requirement* for a reduction in the required buffer; Section 501 *Bulk & Area Requirements* for a reduction in the side yard requirement; Section 601.3 h.1 *Parking Lot Design* for a reduction in the setback from the front property line for commercial parking and related improvements and; Section 601.3 h.3 for a reduction in the setback from the building for commercial parking and related improvements, in the M-1 zone, in accordance with the plans submitted for the record received June 24, 2011 and also referencing the portion of the property that is laid out in the description that was submitted for the record this evening. *With the condition that they remove the windows facing the residential property to the north. *(This was added at Mr. Paleski's suggestion)

Giner / Stremper

Discussion and Vote:

Mr. Giner said in zoning you try to reduce or eliminate the nonconformity. He said there is very limited new encroachment. The piece behind the building is the only area that is getting closer to the buffer. The areas in the front and to the south are seeing an increase in the nonconformity. He said this is a unique situation. The building existed before zoning. It was the zoning that caused it to be nonconforming. The applicants are trying to decrease that. Mr. Paleski said he agrees that it this parcel is unique. He said by eliminating curb cuts in the front it will be a much better layout. You

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can't put anything there without a variance. Ms. Wentworth felt that they were making a good faith proposal. It is such an eyesore now. She said she was definitely for it. Mr. Stremper said he was definitely for it also. He said he was happy that someone was taking the initiative. Mr. Arcari said the building and the whole property is an eyesore. They will be cleaning it up. He was definitely for it. Mr. Giner added that by granting the variance it will be putting it to a good use of the property.

In Favor: Unanimous

Atty. Cottone noted that they also needed to vote on the used car dealer license.

MOTION: To approve the Location Approval, under State Statutes, for a New Car Dealer License as presented this evening. Giner / Paleski / Unanimous

OTHER BUSINESS:

Ms. Newton indicated that they need to talk about a directive from the Board of Selectmen regarding adding an agenda item concerning public participation. She said they also need to decide where they want to have it on the agenda. After a brief discussion, the board members agreed to have public participation at the end of the agenda. Ms. Newton said she will have to update the by-laws.

APPROVAL OF MINUTES:

MOTION: To approve the minutes of the March 7, 2011 meeting.
Giner / Paleski / Unanimous

ADJOURNMENT:

MOTION: To adjourn. Paleski / Stremper / Unanimous

The meeting was adjourned at 9:07 p.m.

Respectfully submitted,

Marlene Bauer
Recording Secretary